

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 06/27/01.
 - b. The request was received on 06/05/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC-60 and Letter Requesting Dispute Resolution
 - b. UB-92
 - c. EOBs
 - d. Medical records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC-60 and Response to a Request for Dispute Resolution
 - b. EOBs
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14-day response to the insurance carrier on 07/01/02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 07/02/02. The response from the insurance carrier was received in the Division on 07/08/02. Based on 133.307 (i) the insurance carrier's responses are timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file

III. PARTIES' POSITIONS

1. Requestor: Letter dated 06/25/02:

“(Provider) charges...services at a fair and reasonable rate...these rates are based upon a comparison of charges to other Carriers and the amount of reimbursement received for these same or similar services...this determination of fair and reasonable rate is based upon contractual agreements with the majority of Workers' Compensation Carriers and payments of 85% of ‘usual and customary’ charges made by other Workers' Compensation and Commercial insurance companies. Based upon the requirements of Texas Administrative code Section 130.304, a methodology may be developed to

establish that a 'fair and reasonable' reimbursement amounts [sic] to ensure proper payment by Workers' Compensation Carriers."

2. Respondent: Letter dated 07/07/02:
"Total Billed Charges: \$16077.23
Subtract Reductions: \$80.25...
Subtotal: \$21282.44 X 85% (fair and reasonable)
Total FS allowable: \$18090.07
No PPO
Less previously paid: \$15996.98
Additional payment due to provider: \$1127.07
Added interest in the amount of: \$60.19
Total additional payment made to provider today: \$1187.26"

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1&2), the only date of service eligible for review is 06/27/01.
2. The provider billed a total of \$15,474.09 for the disputed date of service per the TWCC-60.
3. The carrier reimbursed a total of \$11,999.91 per the TWCC-60. The denial code listed on the EOB is "M – Reduced to Fair and Reasonable." The medical audit dated 10/29/01 states, "Payment reflects 85% as fair and reasonable for a single outpatient episode per Texas Fee Schedule."
4. The amount in dispute per the TWCC-60 for the disputed date of service is \$3,328.19.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..." (bolded for emphasis)

Section 413.011(b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier submitted a methodology in its response to the dispute.

The initial bill submitted in dispute is broken down into operating room services, IV therapy, supplies, recovery charges, etc. The charges are for Ambulatory Surgery Center Facility Fees. The resubmitted bill bundles all the costs together and indicates total charges/facility fee. The provider's TWCC-60 separates the individual charges. However, the total is considered the facility charges (what the facility charged for providing the facility, equipment and supplies in order for the surgical procedure to be done.)

Because there is no current fee guideline for ASC(s), the Medical Review Division has to determine what would be fair and reasonable reimbursement for the services provided. Regardless of the carrier's application of its methodology, lack of methodology, or response, the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. Therefore, based on the evidence available for review, the provider failed to justify or demonstrate that the fees requested are fair and reasonable. Therefore, the provider has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 19th day of August 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.